



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
PAS 1781 2149.3363

April 7, 2005

David J. Castanon, Chief
North Coast Section, Regulatory Branch
U.S. Army Corps of Engineers
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Subject: Concurrence Request for Issuance of a Regional General Permit for Beach
Nourishment Activities.

Dear Mr. Castanon:

We have reviewed your letter, received by us on March 15, 2005, requesting our concurrence with your determination that the proposed beach nourishment activities are not likely to adversely affect the California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), California brown pelican (*Pelecanus occidentalis californianus*), or tidewater goby (*Eucyclogobius newberryi*).

The Army Corps of Engineers (Corps) proposes to issue a regional general permit (RGP) for beach nourishment activities subject to the Corps' authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act within the Los Angeles District (LAD). All projects that meet the conditions outlined in the RGP may proceed under a Notice to Proceed. All other projects that do not meet these conditions would require a Standard Individual Permit. Prior to issuing a Notice to Proceed for qualifying activities, the Corps will circulate project-specific pre-construction notices to the U.S. Fish and Wildlife Service (Service) that would include all relevant information on project logistics.

The RGP covers beach nourishment activities involving discharges of dredged or upland source material on the coastline. Beach nourishment activities address sediment deficits and coastal erosion on the local beaches. Additionally, beach nourishment provides an opportunity for beneficial reuse of dredged material in concert with State policies and the Corps' program for Regional Sediment Management. The proposed project is intended to simulate the natural beach nourishment processes that have been displaced by human activities. However, the sand would be deposited directly on the beaches and would be carried from there to the ocean and downcoast beaches.

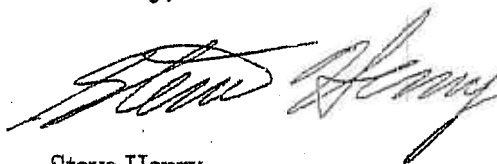
You have proposed many minimization measures for beach nourishment activities, including the following:

- 1 No activities authorized under this RGP will be conducted within 500 yards of breeding western snowy plover from March 1 through September 30.
2. No activities authorized under this RGP will adversely impact Essential Fish Habitat, including the burying of kelp or other marine vegetation that provides forage base for western snowy plover
- 3 No activities authorized under this RGP will be conducted within 1,000 yards of a California least tern breeding colony from April 1 through September 30.
4. Activities will avoid wintering concentrations of western snowy plovers.
5. Activities will avoid impacts to light-footed clapper rail habitat and avoid conducting activities within 500 yards of occupied rail habitat during the breeding season.
6. Avoid activities within any estuary or lagoon.
- 7 In order to avoid impacts to the grunion, dredging and deposition of material should be restricted to the period between September 1 and February 28. If dredging outside this window is required, applicants will be required to assess a schedule of predicted runs, and limit disposal activities to 24 to 72 hours prior to a predicted run. Discharges will not be allowed immediately following a documented run.

In sum, we concur with your determination that issuance of a RGP for beach nourishment activities within the LAD is not likely to adversely affect the California least tern, western snowy plover, California brown pelican, or tidewater goby in all areas within the jurisdiction of the Ventura Fish and Wildlife Office. We came to this decision because of the terms and conditions outlined in the RGP and the additional restrictions agreed to by the Corps and the Services' Ventura and Carlsbad Field Offices.

If you have any questions, please feel free to contact Nic Huber of my staff at (805) 644-1766.

Sincerely,



Steve Henry
Assistant Field Supervisor
San Luis Obispo/Northern Santa Barbara



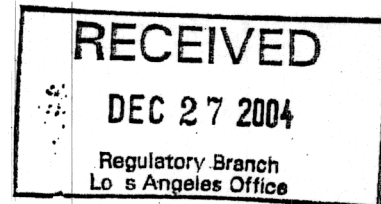
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

DEC 22 2004

F/SWR4:WBC

U.S. Army Corps of Engineers
Los Angeles District
Regulatory Branch
ATTN: CESPL-XXXX
P.O. Box 532711
Los Angeles, California 90053-2325



Dear Mr. Burnam:

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the Army Corps of Engineers' (Corps) Special Public Notice (SPN) for a Regional General Permit (RGP) for Beach Nourishment Projects occurring within the jurisdictional areas of the Corps' Los Angeles District office. In addition, we have reviewed the Corps' November 10, 2004, letter requesting concurrence with your preliminary determinations regarding potential effects to Essential Fish Habitat (EFH). NOAA Fisheries offers the following comments pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA).

The proposed activity described in the SPN is intended to streamline the regulatory procedures for permitting beach nourishment activities. Specifically, it describes various conditions in which a proposed beach nourishment project could proceed under a Notice to Proceed. Under this scenario, a Pre-Construction Notification (PCN) would be sent to NOAA Fisheries and other relevant resource agencies for a brief 15-day comment period. Applicants would be required to 1) provide a Draft Sampling and Analysis Plan for Tiered testing pursuant to the Inland Testing Manual (ITM); 2) address the aesthetic qualities of the proposed discharge material; 3) submit a draft Special Aquatic Site Survey (SAS Survey), including a pre- and post-project monitoring plan and proposal for mitigation for any SAS impacts in the vicinity; and, 4) provide a sediment budget analysis.

Based upon the results of the above information requirements, the Corps is proposing that a project could qualify for the RGP if it meets the following conditions:

1. Meet the Corps' District Policy for beach nourishment grain size compatibility of materials comprised of at least 75% sand and less than 10% sand difference from the receiving beach.
2. Test clean per the requirements of the ITM, or be categorically excluded from testing according to the 40 CFR exclusions.



3. Have no negative aesthetic impact on the receiving beach.
4. Not adversely impact any SAS and/or provide adequate mitigation and post-project monitoring to address such impacts in consultation with NOAA Fisheries.
5. Not affect any Federally listed threatened or endangered species, or affect but not adversely affect such a species in consultation with the U.S. Fish and Wildlife Service.
6. Prove a need for the discharge with sediment budget analyses.
7. Meet any additional data needs requested by the agencies concerning upland source material.

If the project met these conditions, then the Corps would prepare a PCN transmittal to elicit comments from NOAA Fisheries and other relevant resource agencies. The SPN also provides a number of special conditions which would be included as provisions within the PCN. Projects that do not meet these conditions, or those involving substantial resource issues and/or concerns from resource agencies would require a Standard Individual Permit.

The proposed activities, which this RGP would cover, occur within EFH for Federally managed fish species under the Coastal Pelagics and Pacific Groundfish Fishery Management Plans. NOAA Fisheries is concerned that the proposed activities may adversely affect sensitive habitat such as algal beds, seagrasses, rocky reefs, and grunion spawning areas from the increased turbidity and sedimentation associated with deposition of sand in the nearshore environment. In addition, impacts to invertebrate communities resulting from burial may also occur in intertidal and subtidal sandy beach habitat. Therefore, for the purpose of conducting EFH consultations, NOAA Fisheries believes the proposed activities may adversely affect EFH. However, NOAA Fisheries acknowledges that activities not adversely affecting the sensitive habitat types listed above would likely have only temporary and minimal adverse effects to EFH. NOAA Fisheries is generally supportive of this streamlining concept and encourages the Corps to consider addressing these projects via an EFH General Concurrence and/or EFH Programmatic Consultation. In the meantime, pursuant to Section 305(b)(4)(A) of the MSFCMA, NOAA Fisheries offers the following procedural EFH Conservation Recommendations to promote avoidance, minimization, and offsetting measures for those activities that would adversely affect EFH.

EFH Conservation Recommendations

1. Condition #4, as described above, should be amended to consider only those projects that would not adversely impact sensitive habitat (i.e., seagrass beds, algal beds, rocky reef, and grunion spawning areas) for the streamlined PCN approach. Projects with potential impacts to sensitive habitat that include mitigation and post-project monitoring should be handled through a Standard

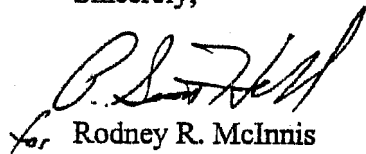
Individual Permit, which would provide for an EFH consultation that is consistent with the finding between NOAA Fisheries and the Corps.

2. Special Condition #4, as described in the SPN, should be amended to require the SAS Survey also be submitted to NOAA Fisheries and other interested resource agencies for review at least 30 days prior to the project commencing. This will facilitate an analysis by the resource agencies of potential effects to marine resources early in the permit process, thereby streamlining consultation procedures.
3. Post-Discharge Condition #10, as described in the SPN, should be amended to require the results of post-project monitoring also be submitted to NOAA Fisheries and other interested resource agencies for review within 30 days of the discharge. Concurrent notification to the Corps, NOAA Fisheries, and other interested resource agencies will facilitate a more timely response.
4. If post-project monitoring demonstrates adverse effects to sensitive habitat, any additional monitoring and/or mitigation plans should be developed by the Corps in consultation with NOAA Fisheries and other interested resource agencies. NOAA Fisheries' input into additional monitoring and/or mitigation will help ensure that adverse effects to EFH are avoided, minimized, and/or offset.

Please be advised that regulations at Section 305(b)(4)(B) and 50 CFR 600.920(k) of the MSFCMA require your office to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Your final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH Conservation Recommendations, you must provide an explanation of the reasons for not implementing those recommendations.

Thank you for consideration of our recommendations. Should you have any questions, please contact Bryant Chesney at 562-980-4037 or Bryant.Chesney@noaa.gov.

Sincerely,


for Rodney R. McInnis
Regional Administrator

